

REMARKS

The Office Action of December 9, 2004 presents the examination of claims 17-36. The present paper amends claim 23 and 32-34, cancels claims 29 and 30 and adds claims 37-40.

Support for the amendments to the claims

The amendment to claim 23 incorporates the limitation of prior claim 29, now canceled. Claims 24 and 25 are amended to depend from pending claims. Claim 30 is also now canceled as duplicative. New claims 38-40 recite that pre-sintering of the blank is performed for 0.5 to 4 hours, as described at page 9, lines 17-18 of the specification.

Amendments to claim 34 are merely editorial.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 34-36 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner indicates that no connection is provided between the pre-sintered blank in claim 34 and active steps in claim 17. Applicants submit that the amendments to claim 34 herein fully address this grounds of rejection.

Rejection under 35 U.S.C. § 102(b)/103(a)

Claims 22-33 are rejected under 35 U.S.C. § 102(b), or alternatively under 35 U.S.C. § 103(a) as being anticipated/obvious over Tsunekawa '667. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested.

The Examiner points out that sample no. 67 in Table 6 of Tsunekawa '667 has the composition recited in the present claim 23. The Examiner takes a position that the breaking strength of the composition is inherent in the composition. That is, breaking strength of from 15 to 30 MPa is a necessary result of the composition. Alternatively, the Examiner asserts that obtaining any particular range of breaking strength is obvious to one of ordinary skill in the art.

As to the Examiner's view that the result is an inherent one, Applicants submit that the breaking strength of the blank is a result not only of its composition, but also of the time and temperature profile of its pre-sintering processing. In this regard, Tsunekawa discloses pressure forming the material into a block, then heating to 1400 °C for 5 hours (see Example 1). This temperature is considerably above the pre-sintering temperature of 850 to 1000 °C described at page 9, line 17 of the present application. Thus, Tsunekawa does not disclose any pre-sintering step, which would be performed at temperature lower than 1400°C. Also, to the degree that the processing temperature affects the breaking strength, it is plain that the material made by Tsunekawa is not the same as that presently claimed; the breaking strength would be expected to be different in view of at least the additional pre-sintering step conducted at a temperature other than 1400°C.

Furthermore, claims 23, 37 and claims dependent thereon expressly recite a pre-sintering step conducted at from 850 to 1000 °C. Tsunekawa's teaching of a higher processing temperature points away from the invention of at least those claims.

For all of the above reasons, Applicants submit that the present claims 22-28 and 31-33 (and 37-40) are patentable over Tsunekawa.

Rejections for obviousness-type double patenting

Claims 23-33 stand rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-4 and 6-7 of U.S. Patent 6,713,421. Claims 23-33 are also provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 10-12 of copending application 10/468,071. Finally, claims 17-22 are also provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 5 and 6 of copending application 10/468,071.

Applicants provide with this response a Terminal Disclaimer sufficient to address the rejection based upon U.S. Patent 6,713,421. Noting the provisional nature of the rejections based upon the copending application, Applicants request that these rejections be held in

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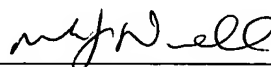
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abeyance until claims are found otherwise allowable in this or the copending application. Applicants will then address the claims in the other application in an appropriate fashion.

Applicants submit that the present application well-describes and claims patentable subject matter. The favorable actions of withdrawal of the standing rejections and allowance of the present claims are respectfully requested.

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Respectfully submitted,

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